

(INSERT PROJECT TITLE)

(insert date), 200()

1. PARTIES

THIS CONTRACT, is entered into by and between the State of Montana **(insert agency name)**, (hereinafter referred to as “the State”), whose address and phone number are **(insert address)**, **(insert phone number)** and **(insert name of contractor)**, (hereinafter referred to as the “Contractor”), whose nine digit Federal ID Number, address and phone number are **(insert federal id number)**, **(insert address)** and **(insert phone number)**.

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, DURATION, AND RENEWAL

(a) This contract **(insert contract number)** shall take effect on **(insert date)**, 200(). The contract shall terminate on **(insert date)**, 200(), unless terminated earlier in accordance with the terms of this contract. (Mont. Code Ann. § 18-4-313.)

(b) This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be extended in **(insert number)**-year intervals, or any interval that is advantageous to the State, for a period not to exceed **(insert number)** additional years. This extension is dependent upon legislative appropriations and in no case may this contract run longer than a **(insert number)**-year period. **(State contracts generally may not exceed a total of seven years.)**

Section 3 is optional depending on the project.

3. PRICE ADJUSTMENTS

Contractor and the State agree price adjustments may be made at the time of contract renewal under the following conditions: **(insert language to correspond to Section 1.13.5 of the Model RFP)**.

4. SERVICES AND/OR SUPPLIES

Contractor agrees to provide to the State the following **(insert supplies, services, etc.)**.

5. CONSIDERATION/PAYMENT

(a) In consideration for the (insert supplies or services) to be provided, the State shall pay according to the following schedule: (insert pay schedule).

(b) The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

6. ACCESS AND RETENTION OF RECORDS

(a) The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

(b) The Contractor agrees to create and retain records supporting the (insert services rendered or supplies provided) for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

7. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

The Contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the State. (Mont. Code Ann. § 18-4-141.)

Section 8 is optional depending on project.

8. FAVORABLE PRICES

Contractor agrees that, through the term of the contract and any agreed-upon extension, the State will be entitled to any lower prices made available to any other customer of comparable volume.

9. HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

Section 10 is optional depending on the project. See Section 1.6 of the Model RFP.

10. CONTRACT PERFORMANCE SECURITY

Contract performance security in the form of (insert form of security) in the amount of (insert dollar amount) has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. All contract performance security, except bonds, will be returned to the Contractor after successful completion of the contract. This security must remain in effect for the entire contract period.

Section 11 needs to be tailored to the project. See Section 1.8 of the Model RFP. Call SPB for assistance at 444-2575.

11. INSURANCE

(insert for commercial general liability and automobile liability only)

General Requirements: The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

(insert for all insurance types)

Primary Insurance: The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

(insert for commercial general liability only)

Specific Requirements for Commercial General Liability: The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of (insert dollar amount) per occurrence and (insert dollar amount) aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

(insert for commercial general liability only)

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

(insert for automobile liability only)

Specific Requirements for Automobile Liability: The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and

property damage of (insert dollar amount) per occurrence and (insert dollar amount) aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

(insert for automobile only)

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

(insert for professional liability only)

Specific Requirements for Professional Liability: The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of (insert dollar amount) per occurrence and (insert dollar amount) aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

(insert for all insurance types)

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insured shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

(insert for all insurance types)

Certificate of Insurance/Endorsements: A certificate of insurance, indicating compliance with the required coverages, has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

12. COMPLIANCE WITH THE WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire contract period. A renewal document

must be sent to the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, upon expiration.

13. INTELLECTUAL PROPERTY

(a) All patent and other legal rights in or to inventions arising out of activities funded in whole or in part by this contract must be available to the State for royalty-free and nonexclusive licensing. The Contractor shall notify the State in writing of any invention conceived or reduced to practice in the course of performance of this contract.

(b) The State shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

14. COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

15. CONTRACT TERMINATION

(a) The State may, by written notice to the Contractor, terminate this contract in whole or in part at any time the Contractor fails to perform this contract.

(b) The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See Mont. Code Ann. § 18-4-313(3).)

16. LIAISON AND SERVICE OF NOTICES

All project management and coordination on behalf of the State shall be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison who will provide the single point of contact for management and coordination of Contractor's work. All work performed pursuant to this contract shall be coordinated between the State's liaison and the Contractor's liaison.

_____ will be the liaison for the State.

(Address)
(City, State, ZIP)
(Telephone #)
(Fax #)

_____ will be the liaison for the Contractor.

(Address)
(City, State, ZIP)
(Telephone #)
(Fax #)

The State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints will first be directed to the liaison.

17. MEETINGS

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

18. CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

19. SCOPE, AMENDMENT AND INTERPRETATION

(a) This contract consists of **(insert number)** numbered pages, any Attachments as required, RFP #**(insert RFP number)** as amended and the Contractor's response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

(b) These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

20. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

MONTANA DEPARTMENT OF _____

CONTRACTOR'S NAME
ADDRESS
CITY, STATE, ZIP
FEDERAL ID #

BY: _____
(Name/Title)

BY: _____
(Name/Title)

BY: _____
(Signature)

BY: _____
(Signature)

DATE: _____

DATE: _____

Approved as to legal content:

Legal Counsel (Date)
Department of _____

Approved as to form:

Contracts Officer (Date)
State Procurement Bureau